

BOARD OF SELECTMEN

Minutes of the Meeting of 8 July 2009. The meeting took place in the Court Room, Town and County Building, 16 Broad Street, Nantucket, MA 02554. Members of the Board present were Rick Atherton, Brian Chadwick, Michael Kopko, Allen Reinhard, and Patricia Roggeveen. Chairman Kopko called the meeting to order at 6:01 PM.

ANNOUNCEMENTS

Town Manager C. Elizabeth Gibson reviewed 2009 committee/board/commission vacancies not filled in June.

Police Chief William Pittman gave an update on the construction status of the new police station, noting the construction contract has been signed and work has commenced on site.

PUBLIC COMMENT

Whitey Willauer, representing the Energy Study Committee, noted there was a National Grid hearing the previous night regarding potential rate increases and that only 20 citizens were in attendance. He expressed his disappointment that no elected officials or Finance Committee members were in attendance.

Mark Watson, co-owner of the Starlight Theater, said his establishment stays open late one time per year to show a blockbuster movie, and requested the Board approve a midnight showing of Harry Potter on 15 July 2009 starting at 12:01 AM, noting the movie will conclude at 2:34 AM and that bar will be closed on time and monitored to assure no drinking after hours. Mr. Reinhard moved to approve the midnight show; Ms. Roggeveen seconded. All in favor, so voted.

APPROVAL OF MINUTES, WARRANTS, PENDING CONTRACTS

Approval of Minutes of 21 January 2009 at 1:00 PM. The minutes of 21 January 2009 at 1:00 PM were approved by the unanimous consent of the meeting.

Approval of Payroll Warrants for Weeks Ending 28 June 2009 and 5 July 2009. The payroll warrants for weeks ending 28 June 2009 and 5 July 2009 were approved by the unanimous consent of the meeting.

Approval of Treasury Warrants for 1 July 2009 and 8 July 2009 and Pending Contracts for 8 July 2009. The treasury warrants for 1 July 2009 and 8 July 2009 and pending contracts for 8 July 2009 were approved by the unanimous consent of the meeting.

CITIZEN/DEPARTMENTAL REQUESTS

Request for Determination as to Financial Interest of Steamship Authority Port Council Representative Pursuant to MGL c. 268A, s. 6. Steamship Authority (SSA) Counsel Steve Sayers explained that Port Council representative Nat Lowell has submitted a financial disclosure statement on his employer's financial interest in SSA matters. Mr. Sayers said Mr. Lowell is seeking to continue as Port Council representative and requests that the Board deem Mr. Lowell's and his employer's interests are not so substantial as to affect the integrity of his services on the Port Council. Mr. Reinhard moved to send a letter to the SSA deeming that Mr. Lowell's and his employer's interests in SSA matters are not so substantial as to affect the integrity of Mr. Lowell's

services on the Port Council; Ms. Roggeveen seconded. All in favor, so voted. Mr. Atherton suggested the Board develop a policy regarding matters such as this going forward.

Assessor: Request for Endorsement of Abatement Advisory Committee Appointments. Assessor Debbie Dilworth spoke in favor of the request for endorsement of the Abatement Advisory Committee appointments of Judith A. Moran, Joseph J. McLaughlin, and H. Flint Ranney, noting that the committee was created in 1994 to assist the Assessor with various abatement appeals. Mr. Reinhard moved to endorse the Abatement Advisory Committee appointments; Mr. Atherton seconded. All in favor, so voted.

Roads & Right of Way Committee: Request for Approval of Locations for New Public Way Monuments. Mr. Reinhard, representing the Roads and Right of Way Committee, spoke in favor of the request, noting the new public way monuments are part of a road improvement plan to mark unmarked public ways. Ms. Roggeveen moved to approve locations for new public way markers; Mr. Atherton seconded. All in favor, so voted.

Nantucket Housing Authority: Request for Approval of Conveyance of Property off Surfside Road Pursuant to Affirmative Vote on Article 84 of 2000 Annual Town Meeting. Nantucket Housing Authority Executive Director Renee Ceely reviewed the request for conveyance of property off Surfside Road, noting that the Nantucket Housing Authority would act as a pass-through for the property to a local non-profit developer such as Habitat for Humanity or Housing Nantucket. Ms. Gibson explained the board is being asked to execute three documents: two quitclaim deeds and one release and indemnification agreement. Mr. Atherton asked why the Housing Authority was being used as a pass-through. Housing Planner Susan Witte said that the vote on Article 84 of the 2000 Annual Town Meeting dictated that the property be specifically deeded to the Housing Authority. Ms. Ceely noted that historically the Town did not want to manage affordable housing projects; therefore, the Housing Authority has "fit that niche" and handles all the paperwork and oversight. Ms. Roggeveen moved to approve the conveyance of property off Surfside Road to the Nantucket Housing Authority for affordable housing use and to execute the aforementioned documents; Mr. Reinhard seconded. All in favor, so voted.

PUBLIC HEARINGS

Public Hearing to Consider Appeal of Three Martins Lane LLC of Historic District Commission Disapproval of Certificate of Appropriateness No. 53732 for Property Located at 3 Martins Lane (continued from 17 June 2009). Chairman Kopko reviewed the Historic District Commission (HDC) appeal guidelines and Town Counsel swore in HDC Administrator Mark Voigt to give testimony. Chairman Kopko opened the public hearing. HDC chairman Dirk Roggeveen spoke on behalf of the HDC, noting two procedural objections: 1) the HDC is appearing without counsel, although it requested counsel, the request was approved by Town Administration and forwarded to Town Counsel, yet Town Counsel said it could not represent both the Board and the HDC, and that the HDC is the only Town commission not allowed counsel; 2) Selectman Allen Reinhard spoke out about the HDC in the local newspaper saying the HDC is difficult to work with and generally arbitrary and capricious, and Mr. Roggeveen said he feels Mr. Reinhard could not sit and act fairly in this matter. Mr. Reinhard disagreed with Mr. Roggeveen saying his statements do not preclude his ability to render an impartial decision. A discussion followed on the policy issue of whether or not to allow the HDC to have counsel, whether Town Counsel should represent both the HDC and the Board, and if the HDC has the authority over curb cuts. Mr. Atherton moved to hear the appeal

tonight and reserve judgment until another meeting. The motion died for lack of a second. Mr. Reinhard moved to continue the public hearing to the Board's 5 August 2009 meeting to allow the HDC to retain counsel; Mr. Atherton seconded. Attorney Steven Cohen, representing the appellant, objected to the postponement, saying the statute says the appeal is to be heard within 30 days of filing, noting he went along with the first continuation but doesn't feel it is fair to continue it further. On Mr. Reinhard's motion, so voted 3-1. Chairman Kopko was opposed and Mr. Reinhard abstained. Chairman Kopko asked the Town Manager to direct the HDC to prepare a succinct request for counsel. Mr. Roggeveen noted the HDC has already done so and the request has already been approved.

TOWN MANAGER'S REPORT

Town Administration: Request for Approval of FY 2009 Year End Budget Transfers. Assistant Finance Director Irene Larivee reviewed the various end of year transfers. Mr. Atherton moved to approve the FY 2009 year end budget transfers as presented (attached); Mr. Reinhard seconded. All in favor, so voted.

Assessor: Tax Abatement and Exemption Process Presentation. Assessor Debbie Dilworth gave a presentation on tax abatements and exemptions and the difference between the two.

Appointments: Commission on Disability. Ms. Gibson explained that in a Town Manager form of government the Town Manager has the authority under Massachusetts General Law Chapter 40, section 8J to appoint members of the Commission on Disability subject to Board approval, and noted there are two vacancies on the commission and three applicants. Ms. Gibson recommended appointing Nancy Rezendes and Whitey Willauer to three year terms, said terms to expire 2012. Mr. Reinhard moved to approve the appointment of the recommended applicants to the Commission on Disability; Mr. Chadwick seconded. All in favor, so voted.

Ms. Gibson reviewed a meeting she had today regarding solid waste issues, noting the Board had asked Town Administration to develop two sets of regulations for construction and demolition (C&D) waste disposal: to license haulers of C&D waste and to track C&D waste through building permits. After a brief discussion the Board consensus is to regulate haulers but wait on tracking C&D through building permits.

Ms. Gibson said a special town meeting will need to be scheduled sometime in the fall for FY 2010 budget issues and will propose a timeline and specifics at the Board's next meeting.

Ms. Gibson acknowledged the hard work and efforts of the Department of Public Works in pursuing outstanding invoices in small claims court and noted approximately \$8,100 has been recouped so far.

SELECTMEN'S REPORTS/COMMENT

Determination on Agreement with Nantucket Hunting Association Regarding Lease Conditions (continued from 15 April 2009 and 13 May 2009). Mr. Reinhard said he and Mr. Chadwick met with the Nantucket Hunting Association (NHA) regarding its plans for a shooting range and that the NHA has agreed to scale down the shooting range from 48 acres to 27 acres, and that they are changing the skeet range to a trap range. Mr. Reinhard said the decision now before the Board is to decide the acreage size for the shooting range, noting that if the range is four acres or less there

is no endangered species mitigation required by the Massachusetts Natural Heritage Program, and it allows the Town to create an additional 10.5 acre industrial zone adjacent to the property identified for a land swap with Myles Reis. He said if the Board agrees to the 27 acres proposed by the NHA, which would include 16-18 acres for mitigation and a permanent deed restriction would be required, giving the Town only five to five and a half acres of additional industrial space. Mr. Reinhard said a decision by the Board needs to be made soon to allow the Reis deal to move forward and the required mitigation to proceed. Mr. Chadwick reiterated that the 27 acres proposed by the NHA includes a mitigation area within the 27 acres. Mr. Atherton inquired whether the NHA has agreed in writing to disclaim the "flagstick" portion of the property and if the NHA is in agreement to move the shooting range into the northwest corner. Mr. Reinhard said the NHA has verbally committed to disclaiming the "flagstick" portion of the property but has not done so in writing. Mr. Chadwick said the NHA is in agreement to move the range into the northwest corner of the property. Mr. Reinhard said he feels the real issue is what the highest and best use of the land is. Mr. Atherton said he is not concerned about permanent mitigation and noted he finds the reduction of acreage and location on the lot significant improvements. A discussion then followed among Board members about how to go forward with the ground lease. Town Counsel Paul DeRensis said the Town does not want to "upset" the original procurement and recommended amending the existing lease which would be considered a minor modification under procurement law. Mr. Reinhard questioned the mitigation requirements and stressed that with four acres there are no requirements, but with 27 acres it would limit any future industrial use of the property. Mr. Chadwick moved to approve 27 acres as outlined on the survey map provided. Mr. Atherton offered an amendment that within the 27 acres only nine acres are to be used for a shooting range. Chairman Kopko asked Mr. Chadwick to withdraw his motion until the Board hears from the NHA regarding timelines. Ms. Roggeveen suggested setting guidelines on a timeline with milestones and to guarantee that if milestones are not met then the Board has the capacity to "pull the plug". NHA president Steven Holdgate said the 27 acres includes acreage to be used for mitigation purposes and requested the boundary lines be determined when Natural Heritage has reviewed the property as they might require less mitigation land. He said in terms of a timeline, the NHA is ready to meet with Natural Heritage and once approvals are in place the NHA plans to immediately file with the Planning Board and Zoning Board of Appeals; he also said he is in agreement with milestones. A brief discussion on the costs of permitting and construction and revenues followed. Attorney Kevin Dale representing the Wigwam Homeowners Association spoke against the 27 acre proposal and in favor of expanding the Town's industrial area. He asked the Board to terminate the lease as allowed by the condition of the lease; otherwise, to reduce the allowed acreage to four and eliminate trap shooting. A homeowner in the Wigwam area also spoke against the proposal and requested the Board to limit the shooting range to four acres. Mr. Chadwick said he feels the 27 acre proposal is a compromise between all parties and moved to approve the 27 acre parcel. Ms. Roggeveen suggested the motion also incorporate Mr. Atherton's earlier amendment that the actual shooting range be limited to nine acres of the 27 acres, to be located in the northwest corner, and that there should be a timeline with milestones. Planning Director Andrew Vorce suggested that the motion not include a timeline as the mitigation permitting needs to be filed immediately and the Board has more time to negotiate specific lease-related concepts. The Board was in agreement with Mr. Vorce's suggestion. Mr. Chadwick moved to approve the 27 acre parcel and of that, the shooting range be limited to nine acres to be located in the northwest corner, as defined in a map drawn by Blackwell & Assoc. dated 10 June 2009; Ms. Roggeveen seconded. So voted 3-2. Chairman Kopko and Mr. Reinhard were opposed. It was agreed that Mr. Chadwick and Mr. Reinhard will continue to meet with the NHA.

Discussion Regarding Resurfacing of North Water Street and Quince Street (continued from 13 May 2009). Mr. Atherton, on behalf of the Streets and Sidewalks Committee, said the issue with North Water Street is the noise from vehicles driving over the current Belgian block road surface, noting the committee did not recommend resurfacing the street in asphalt as that could increase the speed of vehicles travelling on the street. Regarding Quince Street, Mr. Atherton said there are narrow sidewalks on either side of the street and with cars parked on one side of the street it leaves a small route to travel the street. Mr. Reinhard said he realizes there is an expense with Quince Street but sees this as an opportunity to improve the street. Department of Public Works (DPW) Director Jeff Willett said funding would be an issue if North Water and Quince Streets are resurfaced differently than what was planned and that bid prices will need to be sought for alternate street surfaces. It was the Board's consensus to have the DPW include alternate street surfaces in the bid packages for pricing.

2009-2010 Goals and Objectives Discussion (continued from 24 June 2009). Mr. Chadwick moved to defer the discussion to a future date due to the lateness of the hour; Ms. Roggeveen seconded. Chairman Kopko said he would support Mr. Chadwick's motion if the Board agrees to meet on Wednesday, 15 July 2009 at 6:00 PM. Both Ms. Roggeveen and Mr. Chadwick said they would be unavailable to meet on that date. Mr. Reinhard suggested putting Goals and Objectives at the beginning of the 22 July 2009 agenda. Chairman Kopko agreed. On Mr. Chadwick's motion, all in favor, so voted.

The meeting was unanimously adjourned at 10:07 PM.

Approved the 16th day of December, 2009.

2009 Year End Budget Transfers

Authorized under Chapter 77 of the Acts of 2006. Allows budgetary transfers from May 1 through July 15, 2009, if approved by the BOS & Finance Committee. Amount transferred from any budget may not exceed 3% of the original budget amount or \$5,000, whichever is greater.

Town

FROM:	<i>BUDGET DECREASE</i>	TO:	<i>BUDGET INCREASE</i>
FINANCE, EXP	\$ 34,500	DEBT SERVICE PRINCIPAL, EXP	\$ 75,000
IS / GIS, SLRY	\$ 5,000	COMMISSION ON DISABILTIIY, SLRY	\$ 150
CONSERVATION COMMISSION, EXP	\$ 5,000	CONSERVATION COMMISSION, SLRY	\$ 150
PLANNING OFFICE, SLRY	\$ 4,000	LEGAL - BOS GENERAL	\$ 1,700
POLICE DEPARTMENT, SLRY	\$ 70,000	2009 ABATEMENTS & EXEMPTIONS	\$ 260,000
BUILDING INSPECTORS, EXP	\$ 17,000		
EMERGENCY MANAGEMENT, EXP	\$ 5,000		
PUBLIC WORKS, SLRY	\$ 24,000		
TOWN GAS, EXP	\$ 12,500		
HEALTH DEPARTMENT, EXP	\$ 8,700		
OUR ISLAND HOME, SLRY	\$ 10,000		
OUR ISLAND HOME, EXP	\$ 15,000		
COMMISSION ON DISABILITY, EXP	\$ 100		
VETERANS SERVICES, EXP	\$ 3,000		
VISITOR SERVICES, SLRY	\$ 13,000		
HISTORIC DISTRICT COMMISSION, EXP	\$ 7,200		
PARKS & RECREATION, SLRY	\$ 15,000		
TOWN CLOCK, EXP	\$ 3,000		
DEBT SERVICE INTEREST	\$ 85,000		
	<u>\$ 337,000</u>		<u>\$ 337,000</u>

Approved by Board of Selectmen on _____
 Approved by Finance Committee on _____

7/7/2009